

By: Davis of Dallas

H.B. No. 2224

A BILL TO BE ENTITLED

AN ACT

relating to reporting of certain information regarding foreclosure sales of residential real property.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.084 to read as follows:

Sec. 2306.084. MORTGAGE DEFAULT AND FORECLOSURE DATA COLLECTION AND REPORT. (a) The board shall prescribe:

(1) the form and content of the form required to be filed with the department by a foreclosing mortgage servicer under Section 51.0023, Property Code; and

(2) procedures for a person to submit the sworn form to the department electronically.

(b) The form must request information about the property, the debtor, and other facts surrounding the foreclosure, including:

(1) the type of lien being foreclosed and, if applicable, a reference to the appropriate lien authorization in Section 50, Article XVI, Texas Constitution;

(2) the initial interest rate of the loan;

(3) the origination and maturity dates of the loan;

(4) the initial amount of the debt;

(5) whether the loan allows negative amortization or allows the payment of interest only;

(6) whether the interest rate could change and, if so,

1 the minimum and maximum rates, the index used, the amount of the
2 margin, how often the rate could adjust, how much the rate could
3 adjust, and the current interest rate being charged;

4 (7) whether the loan allows for a scheduled payment
5 that is more than twice as large as the average of earlier scheduled
6 monthly payments;

7 (8) whether the loan has a prepayment penalty or a
8 universal default provision in which it allows for a change in the
9 interest rate when there is a default by the debtor on any
10 obligation to the lender or any other lender or there is a decrease
11 in the debtor's credit score;

12 (9) the type of default;

13 (10) demographics of the debtor as prescribed by the
14 board;

15 (11) whether the property was the debtor's residence;

16 (12) the zip code of the property subject to sale; and

17 (13) any other information the department finds
18 appropriate to request from the mortgage servicer.

19 (c) Not later than January 1 of each year, the department
20 shall submit a report to the governor, lieutenant governor, speaker
21 of the house of representatives, and attorney general regarding the
22 data collected under Section 51.0023, Property Code.

23 (d) The department shall make the data submitted under
24 Section 51.0023, Property Code, and the report required by
25 Subsection (c) available to the public on the department's Internet
26 website.

27 SECTION 2. Chapter 51, Property Code, is amended by adding

1 Section 51.0023 to read as follows:

2 Sec. 51.0023. DATA COLLECTION. (a) A mortgage servicer who
3 files a notice of sale under Section 51.002(b) regarding
4 residential real property must submit to the Texas Department of
5 Housing and Community Affairs a completed and sworn form prescribed
6 by the governing board of the department under Section 2306.084,
7 Government Code. The form must be submitted electronically in the
8 manner prescribed by the board.

9 (b) If information requested by the form is unknown by the
10 mortgage servicer, the mortgage servicer must provide the
11 information that is known and submit an affidavit to the Texas
12 Department of Housing and Community Affairs based on personal
13 knowledge that the mortgage servicer made a diligent inquiry and
14 has been unable to locate the information requested.

15 SECTION 3. (a) Not later than November 1, 2011, the
16 governing board of the Texas Department of Housing and Community
17 Affairs shall prescribe the forms and procedures required by
18 Section 2306.084, Government Code, as added by this Act.

19 (b) Except as provided by this section, Section 51.0023,
20 Property Code, as added by this Act, applies only to a sale of
21 residential real property in which notice of sale under Section
22 51.002, Property Code, is provided on or after December 1, 2011.

23 SECTION 4. This Act takes effect September 1, 2011.